



#6
RECEIVED
APR 15 2002
OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Craig, Peter C.

Application No.: 09/918,697

Filed: 07/30/01

For: Portable Pen for Shipping Livestock by Container Ship, Rail and Truck

Group No.: 3643

Examiner: Price, Richard

Assistant Commissioner for Patents
Washington, D.C. 20231

CONDITIONAL PETITION TO ACCORD FILING DATE
FOR EXPRESS MAIL CORRESPONDENCE NOT RECEIVED BY P.T.O.
(37 C.F.R. SECTION 1.10(e))

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner of Patents, Washington D.C. 20231

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee" Mailing Label
No. _____

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, 703 _____

Date: April 1, 2002

Signature

Type or print name of person certifying

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Petition to Accord Filing Date for Express Mail Correspondence Not Received by PTO--page 1

04/15/2002 AWONDAF1 00000094 09918697

01 FC:122

130.00 0P

1. Statement of Facts in support of the Petition

- A.** In the above-identified application, a Preliminary Amendment was filed concurrently with the Continuation Application on July 30, 2001.
- B.** On March 12, 2002, the Patent Office mailed a first office action in the above-identified application.
- C.** In that Office Action, the Examiner required the Applicant to restrict the claims to a one of two-specified inventions. In that office Action, the examiner differentiated the two inventions on the basis of their claims. Invention 1 was supposedly covered by claims 1 - 24 and 29 - 33, and invention 2 was covered by claims 25 - 28.
- D.** In the preliminary amendment filed, Applicant cancelled claims 5 - 8, 10 - 12, 14 - 16, 18 - 20, 22 - 24, and claim 29. Among other amendments to the claims, Applicant also amended claim 25 to depend from claim 2.
- E.** The definition of the two separate inventions on the basis of all of the claims originally filed with the Application, suggests that the examiner did not receive the Preliminary Amendment and enter it in the file.
- F.** The definition of the second invention as encompassing claim 25, which depends from claim 1, incorporating all of its limitations, also suggests that the examiner did not receive the Preliminary Amendment and enter it in the file.

2. Prayer

If the Preliminary Amendment mailed July 30, 2001 was not received by the United States Patent Office, Applicant petitions to accord the above-described Preliminary Amendment in the above-identified application a filing date of July 30, 2001 which is the date the correspondence was deposited with the U.S.P.S. with proper postage, and to act upon the amendment as if it was received on July 30, 2001.

3. Submitted herewith is the statement of Charles R. Cypher as to when the discrepancy was discovered and establishing that this petition is being filed promptly thereafter. 37 C.F.R. Section 1.10(e)(1).

4. The following are the papers required by 37 C.F.R. Section 1.10(e)(3) for this petition:

- * A true copy of the originally-deposited paper, showing the number of the "Express Mail" mailing label was placed on the paper that constitute the correspondence prior to the mailing of the correspondence as "Express Mail".
- * A true copy of the returned postcard showing receipt of these papers by the P.T.O.
- * A true copy of the "Express Mail" mailing label showing the "date-in"
- * Express Mail Certificate Submitted with Correspondence

and, also attached hereto, is a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying this petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received.

5. The petition fee is paid as follows:

Enclosed please find a check payable to the "Commissioner of Patents" for the sum of \$130.00

A duplicate of this petition is enclosed.

Please charge Account No. 03-4075 for any fee deficiency or credit this account for any overpayment for this petition.

Date: April 1, 2002



Charles R. Cypher
Registration No. 41,694
Law Offices of James R. Cypher
405 14th Street, Suite 1607
Oakland, CA 94612-2747
510-832 4111
Customer No. 498



RECEIVED
APR 15 2002
OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Craig, Peter C.

Application No.: 09/918,697

Filed: 07/30/01

For: Portable Pen for Shipping Livestock by Container Ship, Rail and Truck

Group No.: 3643

Examiner: Price, Richard

Assistant Commissioner for Patents
Washington, D.C. 20231

STATEMENT BY PERSON WHO DEPOSITED CORRESPONDENCE AS EXPRESS MAIL
WITH THE UNITED STATES POSTAL SERVICE
(37 C.F.R. SECTION 1.10(e))

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional)

I hereby certify that, on the date shown below, this correspondence is being:

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner of Patents, Washington D.C. 20231
☒ with sufficient postage as first class mail.

MAILING

☐ as "Express Mail Post Office to Addressee" Mailing Label
No. _____

☐ facsimile transmitted to the Patent and Trademark Office, 703 _____

TRANSMISSION

Date: April 1, 2002


Signature

Charles P. Cypher
Type or print name of person certifying

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

1. Statement as to the Discovery of the Discrepancy

- a. Applicant discovered that the United States Patent Office may not have received the Preliminary Amendment on March 18, 2002, when Applicant received the Office Action from the United States Patent Office mailed March 12, 2002.
- b. The petition is being filed within two weeks of the discovery of the discrepancy, and therefore promptly after the discovery of the discrepancy.

2. Statement as to the Deposit of the Express Materials

On July 30, 2001, at 6:30 PM, I deposited a Preliminary Amendment (17 pages) as "Express Mail" with the USPS, along with a Continuation Application. The papers were given directly to an employee of the USPS who completed the "Express Mail" mailing label, filling in the "Date in" and "Time in" portions of the label as well as the other portions of the label.

3. Declaration

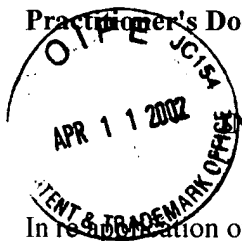
- a. I declare that the enclosed copies of the:
Correspondence – Preliminary Amendment (17 pages),
"Express Mail" mailing label,
Returned postcard receipt,
Express Mail Certificate,
are true copies of the Correspondence – Preliminary Amendment (17 pages), "Express Mail" mailing label, Returned postcard receipt, Express Mail Certificate, originally mailed to the United States Patent Office on July 30, 2001 by "Express Mail" service.
- b. I declare that the enclosed copies of the:
"Express Mail" mailing label,
are true copies of the "Express Mail" mailing label, showing the official notations entered by the USPS on July 30, 2001.

Date: April 1, 2002



Charles R. Cypher
Registration No. 41,694
Law Offices of James R. Cypher
405 14th Street, Suite 1607
Oakland, CA 94612-2747
510-832 4111
Customer No. 498

Practitioner's Docket No. PLI/0007



RECEIVED
APR 15 2002
OFFICE OF PETITIONS

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Craig, Peter C.

Application No.: 09/918,697

Filed: 07/30/2001

Group No.: 3643

Examiner: Richard Price

For: Portable Pen for Shipping Livestock by Container Ship, Rail and Truck

Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. section 1.8(a)

I hereby certify that the attached correspondence comprising:

Statement by Person Who Deposited Correspondence as Express Mail With the United States Postal Service (2 pages) *ce*

Conditional Petition To Accord Filing Date for Express Mail Correspondence Not Received by P.T.O. (3 pages) *ce*

Copy of Express Mail Label of July 30, 2001 (1 page) *ce*

Copy of Return Receipt Post Card of July 30, 2001 (1 page) *a*

Copy of Express Mail Certificate of July 30, 2001 (1 page) *ce*

Copy of Preliminary Amendment of July 30, 2001 (1 page) *ce*

Return Receipt Post Card (1 page) *ce*

Check No. 8334 for \$630.00 *ce 7/1/01*

is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Commissioner for Patents *ce*
Washington, D.C. 20231 *ce*

on Apr. 1, 2002. *ce*

Charles R. Cypher

Charles R. Cypher
Signature of person mailing paper